

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT C. BARR, III,

Case No. 16-cv-13996

Plaintiff,

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

v.

JUN GARCIA,

UNITED STATES MAGISTRATE JUDGE
ANTHONY P. PATTI

Defendant.

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION [6]

I. INTRODUCTION

On November 17, 2016, the Court dismissed Plaintiff's Complaint because the Court lacks subject-matter jurisdiction over the action alleged. Dkt. No. 4. On November 22, 2016, the Court received a letter from Plaintiff disputing the timeline within the Court's order. Dkt. No. 6. The Court interprets this letter to constitute a Motion for Reconsideration. *See id.*

Since Plaintiff's Motion for Reconsideration does not provide evidence that the Court made any palpable errors that would result in a different disposition of the case, the Court will **DENY** the Plaintiff's Motion [6].

II. LEGAL STANDARD

Under this Court's Local Rules, the Court may not grant a motion for reconsideration that merely presents the same issues upon which the Court already ruled. LR 7.1(h)(3) (E.D. Mich. July 1, 2013). Additionally, the movant must demonstrate that there is a palpable defect in the opinion or order under attack and that correcting the defect will result in a different disposition of the case. *Id.*; *Indah v. U.S. S.E.C.*, 661 F.3d 914, 924 (6th Cir. 2011). "A 'palpable defect' is a defect which is obvious, clear, unmistakable, manifest, or plain." *Hawkins v. Genesys Health Systems*, 704 F. Supp. 2d 688, 709 (E.D. Mich. 2010) (quoting *Ososki v. St. Paul Surplus Lines Ins. Co.*, 162 F. Supp. 2d 714, 718 (E.D. Mich. 2001)).

III. DISCUSSION

The Court is obligated under Federal Rule of Civil Procedure 12(h)(3) to dismiss an action if, at any time, it determines it lacks subject-matter jurisdiction over the action. *See* FED. R. CIV. P. 12(h)(3). The Court determined in its previous order that Plaintiff's Complaint had to be dismissed because there was no basis for subject-matter jurisdiction, as there was not complete diversity between the parties and Plaintiff's Fourth Amendment claim could not be brought against a private party. Dkt. No. 4, pp. 2–3 (Pg. ID No. 26–27). The timeline, which Plaintiff disputes, was not relevant to the Court's determination that it lacked subject-matter jurisdiction.

Accordingly, Plaintiff has not shown that the Court has made a palpable defect, and that correcting the defect would result in a different disposition of the case.

IV. CONCLUSION

For the reasons discussed above, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Reconsideration [6] is **DENIED**.

IT IS SO ORDERED.

Dated: December 2, 2016
Detroit, MI

/s/Gershwin A Drain
HON. GERSHWIN A. DRAIN
United States District Court Judge